BEFORE THE TEXAS BOARD OF NURSING
****

In the Matter of Vocational Nurse	§	
License Number 44271	§	AGREED
issued to JOSEPHINE H. SAENZ	§	ORDER

TEXAS BOARD OF NURSING
I do hereby certify this to be a complete, accurate, and true copy of the document which is on file or is of record in the offices of the Texas Board of Nursing.
Executive Director of the Board

On this day the Texas Board of Nursing, hereinafter referred to as the B considered the matter of JOSEPHINE H. SAENZ, Vocational Nurse License Number 4 , hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(1) &(10), Texas Occupations Code. Respondent was notified of her right to be represented by legal counsel and elected to waive representation by legal counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order offered on May 19, 2011, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived representation by counsel, informal proceedings, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Bryan Vocational School of Nursing, Bryan, Texas, on September 8, 1969. Respondent was licensed to practice vocational nursing in the State of Texas on October 29, 1969.

5. Respondent's complete vocational nursing employment history includes:

10/69 - 07/90	Unknown	
08/90 - 05/97	Office Nurse	Dr. Mahesh and Dr. Dove Bryan, Texas
05/97 - 04/98	Nurse	Sanderson Farms Bryan, Texas
06/98 - 06/99	Office Nurse	Navasota Medical Center Navasota, Texas
06/99 - 05/02	Nurse	Sanderson Farms Bryan, Texas
06/02 - 12/06	Staff Nurse	Sheridan on Rock Prairie College Station, Texas
09/06 - Present	Charge Nurse	St. Joseph Manor Long Term Care Bryan, Texas

6. On December 11, 2007, Respondent's license to practice vocational nursing in the State of Texas was issued the sanction of Reprimand With Stipulations by the Texas Board of Nursing. A copy of the December 11, 2007, Agreed Order, Findings of Fact and Conclusions of Law is attached and incorporated, by reference, as part of this Order.

7. On or about December 12, 2008, Respondent failed to comply with the Order issued to her on December 11, 2007, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Two (2) of the Order which states, in pertinent part:

> (2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics....

8. On or about December 12, 2008, Respondent failed to comply with the Order issued to her on December 11, 2007, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Three (3) of the Order which states, in pertinent part:

> (3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Sharpening Critical Thinking Skills"....

9. On or about February 12, 2008, Respondent failed to comply with the Order issued to her on December 11, 2007, by the Texas Board of Nursing. Non-compliance is the result of Respondent's failure to comply with Stipulation Number Four (4) of the Order which states, in pertinent part:

> (4) RESPONDENT SHALL, within sixty (60) days of entry of this Order, successfully complete a course in Basic Cardiopulmonary Life Support for Healthcare Providers....

10. Formal charges were filed on October 2, 2009.

11. Formal charges were mailed to Respondent on October 9, 2009.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of Section 301.452(b)(1) & (10), Texas Occupations Code, and 22 TEX. ADMIN. CODE §217.12(11)(B).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against vocational nurse license number 44271, heretofore issued to JOSEPHINE H. SAENZ, including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act,

Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.1 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that, while under the terms of this Order, this Order SHALL apply to any and all future licenses issued to Respondent to practice nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate privilege, if any, to practice vocational nursing in the State of Texas.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this order the Respondent may not work outside the State of Texas pursuant to a multistate licensure privilege without the written permission of the State of Texas and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL pay a monetary fine in the amount of one thousand dollars ($1,000.00). RESPONDENT SHALL pay this fine within ninety (90) days of entry of this Order. Payment is to be made directly to the Texas Board of Nursing in the form of cashier's check

(2) The Order of the Board issued to RESPONDENT on December 11, 2007, is still in effect in its entirety and RESPONDENT SHALL be responsible for completing the terms of that Order within six (6) months from the date of this Order.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, all encumbrances will be removed from RESPONDENT's license to practice vocational nursing in the State of Texas and RESPONDENT shall be eligible for multistate licensure privileges, if any.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 20 day of May, 2011.

Josephine H. Saenz

JOSEPHINE H. SAENZ, Respondent

Sworn to and subscribed before me this 20 day of May, 2011.

SEAL

CARA HOLT
Notary Public, State of Texas
My Commission Expires 08-23-2013

Cara Holt

Notary Public in and for the State of 8/23/13

WHEREFORE, PREMISES CONSIDERED, the Board of Nurse Examiners for the State of Texas does hereby ratify and adopt the Agreed Order that was signed on the 20th day of May, 2011, by JOSEPHINE H. SAENZ, Vocational Nurse License Number 44271, and said Order is final.

Effective this 14th day of June, 2011.

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board

BEFORE THE TEXAS BOARD OF NURSING

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In the Matter of Vocational Nurse	§	AGREED
License Number 44271	§	
issued to JOSEPHINE H. SAENZ	§	ORDER

On this day the Texas Board of Nursing, hereinafter referred to as the Board, considered the matter of JOSEPHINE H. SAENZ, Vocational Nurse License Number 44271, hereinafter referred to as Respondent.

Information received by the Board produced evidence that Respondent may have violated Section 301.452(b)(10) & (13), Texas Occupations Code. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order offered on September 24, 2007, by Katherine A. Thomas, MN, RN, Executive Director, subject to ratification by the Board.

FINDINGS OF FACT

1. Prior to the institution of Agency proceedings, notice of the matters specified below in these Findings of Fact was served on Respondent and Respondent was given an opportunity to show compliance with all requirements of the law for retention of the license.

2. Respondent waived representation by counsel, informal conference, notice and hearing, and agreed to the entry of this Order.

3. Respondent is currently licensed to practice vocational nursing in the State of Texas.

4. Respondent received a Certificate in Vocational Nursing from Bryan Vocational School of Nursing, Bryan, Texas, in 1969. Respondent was licensed to practice vocational nursing in the State of Texas on October 29, 1969.

5. Respondent's vocational nursing employment history includes:

10/69 - 7/90	Unknown	
8/90 - 5/97	Office Nurse	Dr. Mahesh and Dr. Dove Bryan, Texas
5/97 - 4/98	Nurse	Sanderson Farms Bryan, Texas
6/98 - 6/99	Office Nurse	Navasota Medical Center Navasota, Texas
6/99 - 5/02	Nurse	Sanderson Farms Bryan, Texas
6/02 - 12/06	Staff Nurse	Sheridan on Rock Prairie College Station, Texas
1/07 - present	Unknown	

6. At the time of the incidents in Findings of Fact Numbers Seven (7) and Eight (8), Respondent was employed as a Staff Nurse with Sheridan on Rock Prairie, College Station, Texas, and had been in this position for four (4) years and ten (10) months.

7. On or about August 10, 2006, while employed with Sheridan on Rock Prairie, College Station, Texas, Respondent failed to institute the appropriate nursing intervention required to stabilize Resident JB (who was a full code) when the resident was found non-responsive. Instead of immediately initiating cardiopulmonary resuscitation (CPR) or the emergency activation system, Respondent left the resident to notify the RN Supervisor that the resident had passed away and to obtain an order from the physician to pronounce the resident's death. Respondent's conduct deprived the resident of emergent medical intervention which may have prevented the resident's demise.

8. While employed with Sheridan on Rock Prairie, College Station, Texas, Respondent accepted a nursing assignment which may have resulted in unsafe patient care described in Finding of Fact Number Seven (7). Respondent admitted that she did not have current CPR certification.

9. In response to Finding of Fact Number Seven (7), Respondent states that the social worker failed to change Resident JB from a "Full Code" to "Do Not Resuscitate," as the resident's family knew he only had about six (6) months to live due to Congestive Heart Failure and Renal Failure. Furthermore, Resident JB, who had a Potassium level above 5, was refusing Kayexelate, a medication to lower potassium.

10. In response to Finding of Fact Number Eight (8), Respondent states the facility failed to give all nurses, mandatory warnings of expired CPR cards or reminders of in-service CPR Protocol. Respondent states that she never had any in-service training in the four (4) years she was employed with the facility.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Sections 301.451-301.555, the Board has jurisdiction over this matter.

2. Notice was served in accordance with law.

3. The evidence received is sufficient to prove violation of Section 301.452(b)(10) & (13), Texas Occupations Code, 22 TEX. ADMIN. CODE §217.11(1)(B) & (T) and 22 TEX. ADMIN. CODE §217.13(1)(E).

4. The evidence received is sufficient cause pursuant to Section 301.452(b), Texas Occupations Code, to take disciplinary action against Vocational Nurse License Number 44271, heretofore issued to JOSEPHINE H. SAENZ including revocation of Respondent's license to practice vocational nursing in the State of Texas.

ORDER

IT IS THEREFORE AGREED and ORDERED, subject to ratification by the Texas Board of Nursing, that RESPONDENT SHALL receive the sanction of a REPRIMAND WITH STIPULATIONS, and RESPONDENT SHALL comply in all respects with the Nursing Practice Act, Revised Civil Statutes of Texas as amended, Texas Occupations Code, §§301.001 *et seq.*, the Rules and Regulations Relating to Vocational Nurse Education, Licensure and Practice, 22 TEX. ADMIN. CODE §211.01 *et seq.* and this Order.

IT IS FURTHER AGREED and ORDERED that this Order SHALL be applicable to Respondent's multistate licensure privilege, if any, to practice vocational nursing in compact states.

IT IS FURTHER AGREED and ORDERED that while Respondent's license is encumbered by this Order, Respondent may not work outside the State of Texas pursuant to a

multistate licensure privilege without the written permission of the Texas Board of Nursing and the Board of Nursing in the party state where Respondent wishes to work.

IT IS FURTHER AGREED that:

(1) RESPONDENT SHALL deliver the wallet-sized license issued to JOSEPHINE H. SAENZ, to the office of the Texas Board of Nursing within ten (10) days from the date of ratification of this Order for appropriate notation.

(2) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in Texas nursing jurisprudence and ethics. RESPONDENT SHALL obtain Board approval of the course prior to enrollment only if the course is not being offered by a pre-approved provider. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include nurses. It shall be a minimum of six (6) contact hours in length. The course's content shall include the Nursing Practice Act, standards of practice, documentation of care, principles of nursing ethics, confidentiality, professional boundaries, and the Board's Disciplinary Sanction Policies regarding Sexual Misconduct, Fraud, Theft and Deception, Nurses with Chemical Dependency, and Lying and Falsification. Courses focusing on malpractice issues will not be accepted. RESPONDENT SHALL CAUSE the sponsoring institution to submit a Verification of Course Completion form, provided by the Board, to the Office of the Board to verify RESPONDENT's successful completion of the course. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure. *Board-approved courses may be found at the following Board website address: http://www.bon.state.tx.us/about/stipscourses.html.*

(3) RESPONDENT SHALL, within one (1) year of entry of this Order, successfully complete a course in "Sharpening Critical Thinking Skills," a 3.6 contact hour online program provided by the National Council of State Boards of Nursing (NCSBN) Learning Extension. In order to receive credit for completion of this program, RESPONDENT SHALL SUBMIT the continuing education certificate of completion for this program to the Board's office, to the attention of Monitoring. This course is to be taken in addition to any continuing education requirements the Board may have for relicensure. Information regarding this workshop may be found at the following web address: http://www.learningext.com/products/generalce/critical/ctabout.asp

(4) RESPONDENT SHALL, within sixty (60) days of entry of this Order, successfully complete a course in Basic Cardiopulmonary Life Support for Healthcare Providers. RESPONDENT SHALL obtain Board approval of the course and instructor prior to enrollment. Home study courses and video programs will not be approved. In order for the course to be approved, the target audience shall include Nurses. The course shall be a minimum of eight (8) contact hours in length. The course's content shall include: Adult, Infant, and Child 1- and 2-Rescuer CPR; Adult, Infant, and Child Foreign Body Airy Obstruction for both responsive and unresponsive victims; and Adult Automated External Defibrillation. In order to receive credit for completion of this workshop, RESPONDENT SHALL obtain the Verification of Course Completion form from the Board's website, ftp://www.bne.state.tx.us/i17.pdf, and SHALL SUBMIT the Verification of Course Completion form to the Board's office, to the attention of Monitoring, after having the form completed and signed by the course instructor. RESPONDENT SHALL also submit a front and back copy of the course completion card along with the Verification

of Course Completion form. This course shall be taken in addition to any other courses stipulated in this Order, if any, and in addition to any continuing education requirements the Board has for relicensure.

IT IS FURTHER AGREED, SHOULD RESPONDENT PRACTICE AS A LICENSED VOCATIONAL NURSE IN THE STATE OF TEXAS, RESPONDENT WILL PROVIDE DIRECT PATIENT CARE AND PRACTICE IN A HOSPITAL, NURSING HOME, OR OTHER CLINICAL SETTING AND RESPONDENT MUST WORK IN SUCH SETTING A MINIMUM OF SIXTY-FOUR (64) HOURS PER MONTH UNDER THE FOLLOWING STIPULATIONS FOR TWO (2) YEAR(S) OF EMPLOYMENT. THE LENGTH OF THE STIPULATION PERIOD WILL BE EXTENDED UNTIL SUCH TWENTY-FOUR (24) MONTHS HAVE ELAPSED. PERIODS OF UNEMPLOYMENT OR OF EMPLOYMENT THAT DO NOT REQUIRE THE USE OF A VOCATIONAL NURSE (LVN) LICENSE WILL NOT APPLY TO THIS STIPULATION PERIOD:

(5) RESPONDENT SHALL notify each present employer in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each present employer within five (5) days of receipt of this Order. RESPONDENT SHALL notify all future employers in nursing of this Order of the Board and the stipulations on RESPONDENT's license. RESPONDENT SHALL present a complete copy of this Order and all Proposals for Decision issued by the Administrative Law Judge, if any, to each future employer prior to accepting an offer of employment.

(6) RESPONDENT SHALL CAUSE each present employer in nursing to submit the

Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within ten (10) days of receipt of this Order. RESPONDENT SHALL CAUSE each future employer to submit the Notification of Employment form, which is provided to the Respondent by the Board, to the Board's office within five (5) days of employment as a nurse.

(7) For the first year of employment as a Licensed Vocational Nurse under this Order, RESPONDENT SHALL be directly supervised by a Registered Nurse or a Licensed Vocational Nurse. Direct supervision requires another professional or vocational nurse to be working on the same unit as RESPONDENT and immediately available to provide assistance and intervention. RESPONDENT SHALL work only on regularly assigned, identified and predetermined unit(s). The RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(8) For the remainder of the stipulation period, RESPONDENT SHALL be supervised by a Registered Nurse or a Licensed Vocational Nurse who is on the premises. The supervising nurse is not required to be on the same unit or ward as RESPONDENT, but should be on the facility grounds and readily available to provide assistance and intervention if necessary. The supervising nurse shall have a minimum of two (2) years experience in the same or similar practice setting to which the Respondent is currently working. RESPONDENT SHALL work only regularly assigned, identified and predetermined unit(s). RESPONDENT SHALL NOT be employed by a nurse registry, temporary nurse employment agency, hospice, or home health agency. RESPONDENT SHALL NOT be self-employed or contract for services. Multiple employers are prohibited.

(9) RESPONDENT SHALL CAUSE each employer to submit, on forms provided

to the Respondent by the Board, periodic reports as to RESPONDENT's capability to practice nursing. These reports shall be completed by the Registered Nurse or Licensed Vocational Nurse who supervises the RESPONDENT. These reports shall be submitted by the supervising nurse to the office of the Board at the end of each three (3) months for two (2) years of employment as a nurse.

IT IS FURTHER AGREED, that upon full compliance with the terms of this Order, RESPONDENT SHALL be issued an unencumbered license and multistate licensure privileges, if any, to practice vocational nursing in the State of Texas.

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RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Agreed Order. I waive representation by counsel. I have reviewed this Order. I neither admit nor deny the violations alleged herein. By my signature on this Order, I agree to the Findings of Fact, Conclusions of Law, Order, and any conditions of said Order, to avoid further disciplinary action in this matter. I waive judicial review of this Order. I understand that this Order is subject to ratification by the Board. When this Order is ratified, the terms of this Order become effective, and a copy will be mailed to me. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and disciplinary sanction, including revocation of my license to practice vocational nursing in the State of Texas, as a consequence of my noncompliance.

Signed this 2 day of NOVEMBER 2007.

Josephine Saenz

JOSEPHINE M. SAENZ, Respondent

Sworn to and subscribed before me this 2ND day of NOVEMBER, 2007.

SEAL

DARLENE NICHOLS
Notary Public, State of Texas
My Commission Expires
JANUARY 31, 2009

Darlene Nichols

Notary Public in and for the State of TEXAS

WHEREFORE, PREMISES CONSIDERED, the Texas Board of Nursing does hereby ratify and adopt the Agreed Order that was signed on the 2nd day of November, 2007, by JOSEPHINE H. SAENZ, Vocational Nurse License Number 44271, and said Order is final.

Effective this 11th day of December, 2007.

Katherine A. Thomas, MN, RN
Executive Director on behalf
of said Board